



General Assembly

January Session, 2011

***Raised Bill No. 899***

LCO No. 2790

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Referred to Committee on Commerce

Introduced by:  
(CE)

***AN ACT CONCERNING THE USE OF RESEARCH AND  
DEVELOPMENT TAX CREDITS FOR PROJECTS IN ENTERPRISE  
ZONES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1       Section 1. (NEW) (*Effective July 1, 2011*) (a) As used in this section:
- 2       (1) "Commissioner" means the Commissioner of Economic and  
3       Community Development;
- 4       (2) "Department" means the Department of Economic and  
5       Community Development;
- 6       (3) "Eligible corporation" means any corporation with research and  
7       development credits;
- 8       (4) "Eligible development company" means any partnership,  
9       including a limited partnership, a limited liability company or any  
10      other entity that is treated as a partnership for federal income tax  
11      purposes, that (A) is formed by at least one or more eligible  
12      corporations and any number of other persons for purposes of  
13      conducting a qualified development project described in subsection (c)

14 of this section, and (B) has received a certificate of eligibility from the  
15 commissioner, as provided in subsection (b) of this section;

16 (5) "Enterprise zone" means any such zone designated pursuant to  
17 section 32-70 of the general statutes; and

18 (6) "Research and development credits" means the tax credits  
19 allowed pursuant to section 12-217j or 12-217n of the general statutes.

20 (b) The commissioner may issue a certificate of eligibility to a  
21 development company, allowing it to accept research and  
22 development credits in furtherance of a qualified development project,  
23 as described in subsection (c) of this section. Such eligible development  
24 company may receive not more than one certificate of eligibility in any  
25 income year. No certificate of eligibility shall be issued after December  
26 31, 2020.

27 (c) (1) A qualified development project eligible for the transfer of  
28 research and development credits pursuant to this section shall be any  
29 commercial or residential real estate development project that is (A)  
30 newly constructed or undergoing major expansion or renovation, as  
31 determined by the commissioner, (B) located in an enterprise zone, (C)  
32 undertaken by an eligible development company, and (D) in  
33 compliance with section 31-53 of the general statutes, including any  
34 such project that would otherwise be exempt pursuant to the  
35 provisions of subsection (g) of section 31-53 of the general statutes.

36 (2) Eligible expenditures for a qualified development project  
37 include, but are not limited to, expenditures for (A) land acquisition  
38 and permitting, (B) design, (C) construction, (D) demolition, (E)  
39 remediation, (F) site preparation and improvements, (G) infrastructure  
40 improvements, including, but not limited to, roads, sidewalks, signage  
41 or traffic controls, (H) utility improvements for sewer, water, gas,  
42 telecommunications, drainage or electricity generation, transmission or  
43 distribution, (I) alterations or renovations to any existing structures,  
44 including, but not limited to, leasehold improvements and furniture,

45 fixtures and equipment that are necessary or appropriate for use in  
46 connection with the qualified development project, (J) tenant  
47 procurement, including, but not limited to, marketing, brokerage,  
48 rental concessions and moving allowances, and (K) financing or  
49 refinancing activities.

50 (3) A qualified development project shall not include any  
51 development that is to be used as a facility for any obscene material or  
52 performance, as described in section 53a-193 of the general statutes.

53 (d) (1) Notwithstanding the provisions of sections 12-217j and 12-  
54 217n of the general statutes, an eligible corporation may (A) contribute  
55 research and development credits, in whole or in part, to an eligible  
56 development company of which it is a member or partner, which  
57 contribution shall not be considered a sale, assignment or transfer for  
58 purposes of this section, for use by such eligible development  
59 company in furtherance of a qualified development project, or (B) sell,  
60 assign or otherwise transfer research and development credits, in  
61 whole or in part, to one or more taxpayers, so long as the proceeds  
62 from such sale, assignment or transfer are contributed, not later than  
63 ninety days after such sale, assignment or transfer, to an eligible  
64 development company of which it is a member or partner, for use by  
65 such eligible development company in furtherance of a qualified  
66 development project.

67 (2) The total amount of research and development credits that may  
68 be contributed by an eligible corporation to a particular eligible  
69 development company, or sold, assigned or transferred by an eligible  
70 corporation to fund a contribution to a particular eligible development  
71 company, may not exceed fifty million dollars during any single  
72 income year of the eligible corporation.

73 (3) The eligible corporation shall provide to the eligible  
74 development company, or to the taxpayer to which such eligible  
75 corporation sells, assigns or transfers research and development  
76 credits, a schedule showing when each research and development

77 credit contributed or sold, assigned or transferred, is eligible for use by  
78 the eligible corporation.

79 (4) An eligible development company that receives research and  
80 development credits under subdivision (1) of this subsection may sell,  
81 assign or otherwise transfer such credits, in whole or in part, to one or  
82 more taxpayers, provided the proceeds from such sale, assignment or  
83 transfer are used by such eligible development company exclusively in  
84 furtherance of the qualified development project.

85 (e) If an eligible corporation or eligible development company sells,  
86 assigns or otherwise transfers research and development credits to  
87 another taxpayer, the transferor and transferee shall jointly submit  
88 written notification of such transfer to the department not later than  
89 thirty days after the date of such transfer. The notification shall include  
90 the number of the certificate of eligibility, the date of transfer, the  
91 amount of such credits transferred, the tax identification numbers for  
92 both the transferor and the transferee, and any other information  
93 required by the department. Failure to comply with this subsection  
94 shall result in a disallowance of the tax credit until there is full  
95 compliance on both the part of the transferor and the transferee.  
96 Promptly after receipt of such notification, the department shall issue a  
97 tax credit voucher to the transferee. The department shall provide a  
98 copy of the notification of assignment and the tax credit voucher to the  
99 Department of Revenue Services upon request.

100 (f) Any transferee of any research and development credits may use  
101 such credits as a credit against the tax imposed under chapter 207, 208,  
102 219 or 229 of the general statutes for any income year in which the  
103 eligible corporation would have been eligible to claim such credit. Any  
104 transferee of any such credits may sell, assign or otherwise transfer  
105 such credits, in whole or in part, to one or more taxpayers. The  
106 department shall be notified of any such transfer in the manner  
107 provided in subsection (e) of this section, and shall issue a tax credit  
108 voucher to any such subsequent transferee, with appropriate

109 adjustments to any prior tax credit vouchers issued.

110 (g) Not later than forty-eight months after the issuance of a  
111 certificate of eligibility pursuant to subsection (b) of this section, the  
112 eligible development company shall submit an independent  
113 certification to the commissioner that the proceeds from the  
114 contribution, sale, assignment or transfer of the research and  
115 development credits have been used exclusively in furtherance of a  
116 qualified development project.

117 (h) In the event of the termination, for any reason, of a qualified  
118 development project prior to the expenditure of the entire amount of  
119 the net proceeds of the research and development credits contributed,  
120 sold, assigned or transferred pursuant to this section, the eligible  
121 development company shall pay to the commissioner an amount equal  
122 to one hundred per cent of the net unexpended proceeds prior to  
123 making any distribution of such proceeds to any eligible corporation  
124 or corporations.

125 (i) In the event that, at any time after the issuance of a certificate of  
126 eligibility or tax credit voucher, the Department of Economic and  
127 Community Development or the Department of Revenue Services  
128 determines that there was a material misrepresentation or fraud on the  
129 part of any person in connection with the submission of an application  
130 to obtain such certificate of eligibility or tax credit voucher, and the  
131 result of such material misrepresentation or fraud was that such  
132 certificate of eligibility or tax credit voucher was issued, the sole and  
133 exclusive remedy of the Department of Economic and Community  
134 Development and the Department of Revenue Services shall be to seek  
135 redress from the person that committed the fraud or  
136 misrepresentation, not from any transferee of the research and  
137 development credits.

138 (j) The Department of Economic and Community Development, in  
139 consultation with the Department of Revenue Services, shall adopt  
140 regulations in accordance with the provisions of chapter 54 of the

141 general statutes, to carry out the purposes of this section.

This act shall take effect as follows and shall amend the following sections:
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Section 1	<i>July 1, 2011</i>	New section
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***Statement of Purpose:***

To permit the transfer of research and development tax credits to encourage commercial or residential development projects in enterprise zones.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*